

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MIGUEL DIAZ,	:	
	:	
Petitioner,	:	<u>ORDER</u>
	:	
-v-	:	21-CV-5452 (LGS) (JLC)
	:	
SUPERINTENDENT ERIC BELL,	:	
	:	
Respondent.	:	
-----X	:	

JAMES L. COTT, United States Magistrate Judge.

Pro se Petitioner Miguel Diaz has moved for appointment of counsel by motion filed July 1, 2021 (Dkt. No. 11). The Court does not have a budget to pay appointed counsel in civil cases and has no power to enlist a lawyer to serve without pay. The Court must be mindful that volunteer attorney time is a precious commodity, and “courts should not grant such applications [for appointment of counsel] indiscriminately.” *Cooper v. A. Sargenti Co.*, 877 F.2d 170, 172 (2d Cir. 1989). For the Court to order the appointment of counsel, a petitioner must make “a threshold showing of some likelihood of merit.” *Johnston v. Maha*, 606 F.3d 39, 41 (2d Cir. 2010) (citing *Cooper v. A. Sargenti Co.*, 877 F.2d 170, 174 (2d Cir. 1989)); *Carmona v. U.S. Bureau of Prisons*, 243 F.3d 629, 632 (2d Cir. 2001). Only then can the Court consider the other factors appropriate to the determination of whether counsel should be appointed: “the [petitioner’s] ability to investigate the crucial facts, . . . , the [petitioner’s] ability to present the case, the complexity of the legal issues and any special reason in that case why appointment of counsel would be more likely to lead to a just determination.” *Johnston*, 606 F.3d at 42 (citing *Hodge*

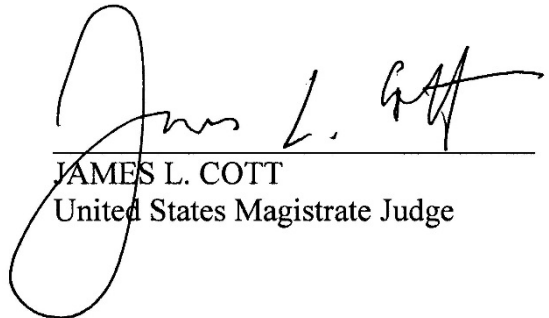
v. Police Officers, 802 F.2d 58, 61–62 (2d Cir. 1986)); accord *Dolan v. Connolly*, 794 F.3d 290 (2d Cir. 2015).

At this point in the proceedings, the Court denies Petitioner's application for appointment of counsel without prejudice to renewal because the Court cannot conclude based on the current record that Petitioner's claims are substantial or that he is likely to succeed on the merits. Accordingly, Petitioner should work with the Pro Se Office of the Court for any additional help that he needs and should also continue to seek to obtain private counsel. The Pro Se Office may be contacted at: Pro Se Office, United States District Court, S.D.N.Y., 40 Foley Square, Room 105, New York, NY 10007, 212-805-0175.

The Clerk is respectfully directed to close docket entry number 11 and mark it as denied without prejudice.

SO ORDERED.

Dated: July 6, 2021
New York, New York



JAMES L. COTT
United States Magistrate Judge

**A copy of this Order has
been mailed to the following:**

Miguel Diaz
DIN: 18A2702
Clinton Correctional Facility
P.O. Box 2001
Dannemora, NY 12929